

2003 DRAFTING REQUEST**Bill**Received: **06/11/2003**Received By: **rnelson2**Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**By/Representing: **Ryan G**This file may be shown to any legislator: **NO**Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - garn/injunct**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Albers@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Homestead and other property exempt from execution

Instructions:

see attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rnelson2 06/12/2003	wjackson 06/16/2003 wjackson 06/18/2003	pgreensl 06/18/2003		lemery 06/18/2003		
/P2	mlief	wjackson	jfrantze		mbarman		S&L

08/25/2003 02:07:07 PM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	08/13/2003	08/13/2003	08/13/2003	_____	08/13/2003		
/1	rnelson2 08/19/2003	wjackson 08/25/2003	rschluet 08/25/2003	_____	sbasford 08/25/2003	sbasford 08/25/2003	

FE Sent For:

<END>

→ At
Intro.

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for
Jacket
The
ASSEMBLY

252

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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		/1 WJ 8/25					

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		wjackson 06/18/2003		_____			

1/2 WJ 8/13
 Jo 8/13 Jo R2
 8/13

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1/?	rnelson2	1/Pl WJ 6/18	6/18 PG	6/18 PG/d			

FE Sent For:

<END>

Nelson, Robert P.

From: Gruber, Ryan
Sent: Wednesday, June 11, 2003 11:34 AM
To: Nelson, Robert P.
Subject: Drafting request based on 2003 ASA 1 to AB 149 (LRBs0055/1)

Robert,

Please draft the sub to AB 149 (LRBs0055/1) as a new Assembly Bill, including the following modifications:

Pg 2 Ln 2: deleted "in a limited liability" and insert "closely held business, including a limited liability" ✓

Pg 2 Ln 20: delete "\$2,575" and insert "\$2,775" ✓

Pg 3 Ln 8: delete "\$68,800" and insert "\$40,000" ✓

Pg 3 Ln 12: same change ✓

Pg 3 Ln 25: same change ✓

Pg 4 Ln 8: same change ✓

Pg 4 Ln 10: same change ✓

Pg 4 Ln 12: same change ✓

Pg 4 Ln 24: same change ✓

Pg 5 Ln 3: same change ✓

Pg 5 Ln 5: same change ✓

Additionally, amend language regarding the homestead exemption such that its \$40,000 value is automatically indexed for inflation beginning on January 1, 2004, or upon passage of the bill, whichever is later. ✓

Upon completion, please send a copy of the draft to our office for review. Thanks!

Ryan Gruber

Research Assistant
Clerk, Assembly Committee on Property
Rights and Land Management
Office of Rep. Sheryl Albers
1-877-947-0050 (in Wisconsin)
1-608-266-8531
1-608-282-3650 (fax)
ryan.gruber@legis.state.wi.us

2003 B.C.C.
**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 149**

May 13, 2003 - Offered by Representative ALBERS.

1 **AN ACT** *to renumber and amend* 815.18 (3) (b); *to amend* 815.18
2 (3) (f), 815.18 (3) (g), 815.18 (3) (i) 1. e., 815.20 (1) and (2), 815.21 (2), 815.21 (4)
3 and 815.21 (5); and *to create* 815.18 (3) (b) 2. of the statutes; **relating to:** the
4 homestead exemption and increases in the value of the exemption for various
5 property that is exempt from execution.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 815.18 (3) (b) of the statutes is renumbered 815.18 (3) (b) 1. and
7 amended to read:

8 815.18 (3) (b) 1. Equipment, inventory, farm products and professional books
9 used in the business of the debtor or the business of a dependent of the debtor, not
10 to exceed \$7,500 \$12,500 in aggregate value.

11 **SECTION 2.** 815.18 (3) (b) 2. of the statutes is created to read:

*closely held
business*

1 815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any
2 interest of the debtor, not to exceed \$12,000 in aggregate value, in a ²~~limited liability~~
3 ~~company, partnership, or corporation~~ that employs the debtor or in whose business
4 the debtor is actively involved.

5 SECTION 3. 815.18 (3) (d) of the statutes is amended to read:

6 815.18 (3) (d) *Consumer goods.* Household goods and furnishings, wearing
7 apparel, keepsakes, jewelry and other articles of personal adornment, appliances,
8 books, musical instruments, firearms, sporting goods, animals or other tangible
9 personal property held primarily for the personal, family or household use of the
10 debtor or a dependent of the debtor, not to exceed \$5,000 \$10,000 in aggregate value.

11 SECTION 4. 815.18 (3) (f) of the statutes is amended to read:

12 815.18 (3) (f) *Life insurance.* Any unmaturred life insurance contract owned by
13 the debtor and insuring the debtor, the debtor's dependent or an individual of whom
14 the debtor is a dependent, other than a credit life insurance contract, and the debtor's
15 aggregate interest, not to exceed ~~\$4,000~~ \$8,625 in value, in any accrued dividends,
16 interest or loan value of all unmaturred life insurance contracts owned by the debtor
17 and insuring the debtor, the debtor's dependent or an individual of whom the debtor
18 is a dependent.

19 SECTION 5. 815.18 (3) (g) of the statutes is amended to read:

20 815.18 (3) (g) *Motor vehicles.* Motor vehicles not to exceed \$1,200 ^{\$2,075}~~\$2,575~~ in
21 aggregate value. Any unused amount of the aggregate value from par. (d) may be
22 added to this exemption to increase the aggregate exempt value of motor vehicles
23 under this paragraph.

24 SECTION 6. 815.18 (3) (i) 1. c. of the statutes is amended to read:

1 815.18 (3) (i) 1. c. A payment, not to exceed ~~\$25,000~~ \$40,000, resulting from
2 personal bodily injury, including pain and suffering or compensation for actual
3 pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

4 SECTION 7. 815.20 (1) and (2) of the statutes are amended to read:

5 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
6 resident owner and occupied by him or her shall be exempt from execution, from the
7 lien of every judgment and from liability for the debts of the owner to the amount of
8 as adjusted under sub. (3)
\$40,000 ~~\$68,800~~, except mortgages, laborers', mechanics' and purchase money liens
9 and taxes and except as otherwise provided. The exemption shall not be impaired
10 by temporary removal with the intention to reoccupy the premises as a homestead
11 nor by the sale of the homestead, but shall extend to the proceeds derived from the
12 sale to an amount not exceeding \$40,000 ~~\$68,800~~, while held, with the intention to
13 procure another homestead with the proceeds, for 2 years. The exemption extends
14 to land owned by husband and wife jointly or in common or as marital property, and
15 ~~when they reside in the same household may be claimed by either or may be divided~~
16 ~~in any proportion between them, but the exemption may not exceed \$40,000 for the~~
17 ~~household. If the husband and wife fail to agree on the division of exemption, the~~
18 ~~exemption shall be divided between them by the court in which the first judgment~~
19 ~~was taken. The exemption extends to the interest therein of tenants in common,~~
20 ~~having a homestead thereon with the consent of the cotenants, and to any estate less~~
21 ~~than a fee.~~

22 (2) Any owner of an exempt homestead against whom a judgment has been
23 rendered and entered in the judgment and lien docket, and any heir, devisee or
24 grantee of the owner, or any mortgagee of the homestead, may proceed under s.
25 806.04 for declaratory relief if the homestead is less than \$40,000 ~~\$68,800~~ in value

as adjusted under sub. (3)

as adjusted under
S. 815.20 (3) n

1 and the owner of the judgment shall fail, for 10 days after demand, to execute a
- 2 ✓ recordable release of the homestead from the judgment owner's judgment lien.
149er 4-2 →

3 SECTION 8. 815.21 (2) of the statutes is amended to read:

4 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the
5 estimate of the value thereof, the officer shall cause such lands to be surveyed,
6 beginning at a point to be designated by the owner and set off in compact form. After
7 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be
8 of greater value than ~~\$40,000 \$68,800~~ ^{place}, the officer may still advertise and sell the
9 premises so set off, and out of the proceeds of such sale pay to the exempt homestead
10 claimant the sum of ~~\$40,000 \$68,800~~ ^{place} and apply the balance of the proceeds of such
11 sale on the execution; but no sale shall be made in the case last mentioned unless a
12 greater sum than ~~\$40,000 \$68,800~~ ^{place} is paid for said premises. The expenses of such
13 survey and sale shall be collected on the execution if the owner claimed as the owner's
14 homestead a greater quantity of land or land of greater value than the owner was
15 entitled to; otherwise such expenses shall be borne by the plaintiff.

16 SECTION 9. 815.21 (4) of the statutes is amended to read:

17 815.21 (4) A homestead so selected and set apart by such officer shall be the
18 exempt homestead of such person. The costs of such notice and survey shall be
19 collected upon the execution. A failure of the officer to set apart such homestead shall
20 affect such levy, only as to such homestead; and the failure of such person to select
21 that person's homestead shall not impair that person's right thereto, but only that
22 person's right to select the same when such selection is lawfully made by such officer.
23 After such homestead is thus set off by such officer, if, in the officer's opinion or in
24 the opinion of the plaintiff, the premises are of greater value than ~~\$40,000 \$68,800~~ ^{place}
25 the officer may sell the same as where the owner makes the selection.

as
adjusted
under
S. 815.20
(3) n

*as adjusted under
S. 815.20 (3) ^*

1 SECTION 10. 815.21 (5) of the statutes is amended to read:

2 815.21 (5) If the land claimed as an exempt homestead exceeds in value

3 *place* ~~\$40,000 \$68,800~~ the officer shall not be bound to set off any portion thereof but may

4 sell the same, unless the debtor shall make the debtor's selection of such a portion

5 thereof as shall not exceed *place* ~~\$40,000 \$68,800~~ in value. *as adjusted under*

S. 815.20 (3)

6

(END)

*inserts
5-5*

(EX. 5-5)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2833/Plins
RPN:.....

1 insert 1-5:

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

2 insert 1-6:

3 SECTION ~~h~~[#] 815.18 (2) (bc) of the statutes is created to read:

4 815.18 (2) (bc) "Closely held business" means a corporation whose stocks are
5 held by not more than 25 individuals, a partnership of not more than 25 partners,
6 or a limited liability company of not more than 25 members.

 ****NOTE: I chose 25 as the number because section 551.23 (10) and (11) of the statutes exempts from securities registration any transaction involving 25 or fewer persons. There is no definition of "closely held business" in the statutes. Sections ~~7.25~~^{77.25} (15), (15m), and (15s) create exemptions from paying a real estate transfer fee if the transfer is between a business and the shareholders, partners, or members if those individuals are related to each other. That could be another way to define a closely held business, but I thought it might be too narrow for this use. Let me know if this definition needs changing.

who are
individuals

7
8 insert 4-2:

9 SECTION ~~h~~[#] 815.20 (3) of the statutes is created to read:

10 815.20 (3) The department of administration shall adjust the amount of the
11 homestead exemption under this section and s. 815.21¹ annually, beginning in
12 January, 2004, ^{or the on the effective date of this subsection...} to reflect the annual change in the consumer price index for all urban
13 consumers, U.S. city average, as determined by the U.S. department of labor. By
14 March 1 of each year, the department of administration shall notify the director of
15 state courts of the adjusted amount of the homestead exemption, which shall apply
16 to all executions issued on or after that date.

insert
date in
which ever
is
later

1 insert 5-5:

2 **SECTION ~~4~~ Initial applicability.**

3 (1) ~~g~~ This act first applies to executions issued on the effective date of this
4 subsection.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2833/P1
RPN:wlj:pg

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

to ed. 8/13

Due
8/18

REGEN

1 AN ACT *to renumber and amend* 815.18 (3) (b); *to amend* 815.18 (3) (d), 815.18
2 (3) (f), 815.18 (3) (g), 815.18 (3) (i) 1. c., 815.20 (1) and (2), 815.21 (2), 815.21 (4)
3 and 815.21 (5); and *to create* 815.18 (2) (bc), 815.18 (3) (b) 2. and 815.20 (3) of
4 the statutes; **relating to:** the homestead exemption and increases in the value
5 of the exemption for various property that is exempt from execution.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 815.18 (2) (bc) of the statutes is created to read:

7 815.18 (2) (bc) "Closely held business" means a corporation whose stocks are
8 held by not more than 25 individuals, a partnership of not more than 25 partners who
9 are individuals, or a limited liability company of not more than 25 members who are
10 individuals.

****NOTE: I chose 25 as the number because section 551.23 (10) and (11) of the statutes exempts from securities registration any transaction involving 25 or fewer persons. There is no definition of "closely held business" in the statutes. Sections 77.25 (15), (15m), and (15s) create exemptions from paying a real estate transfer fee if the transfer is between a business and the shareholders, partners, or members if those individuals are related to each other. That could be another way to define a closely held business, but I thought it might be too narrow for this use. Let me know if this definition needs changing.

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5 to exceed ~~\$7,500~~ \$12,500 in aggregate value.

6 **SECTION 3.** 815.18 (3) (b) 2. of the statutes is created to read:

7 815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any
8 interest of the debtor, not to exceed ~~\$12,000~~ ⁵\$12,000 in aggregate value, in a closely held
9 business that employs the debtor or in whose business the debtor is actively involved.

10 **SECTION 4.** 815.18 (3) (d) of the statutes is amended to read:

11 815.18 (3) (d) *Consumer goods.* Household goods and furnishings, wearing
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18 the debtor and insuring the debtor, the debtor's dependent or an individual of whom
19 the debtor is a dependent, other than a credit life insurance contract, and the debtor's
20 aggregate interest, not to exceed ~~\$4,000~~ \$8,625 in value, in any accrued dividends,
21 interest or loan value of all unmaturred life insurance contracts owned by the debtor

1 and insuring the debtor, the debtor's dependent or an individual of whom the debtor
2 is a dependent.

3 **SECTION 6.** 815.18 (3) (g) of the statutes is amended to read:

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6 added to this exemption to increase the aggregate exempt value of motor vehicles
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12 **SECTION 8.** 815.20 (1) and (2) of the statutes are amended to read:

13 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
14 resident owner and occupied by him or her shall be exempt from execution, from the
15 lien of every judgment and from liability for the debts of the owner to the amount of
16 \$40,000, as adjusted under sub. (3), except mortgages, laborers', mechanics' and
17 purchase money liens and taxes and except as otherwise provided. The exemption
18 shall not be impaired by temporary removal with the intention to reoccupy the
19 premises as a homestead nor by the sale of the homestead, but shall extend to the
20 proceeds derived from the sale to an amount not exceeding \$40,000, as adjusted
21 under sub. (3), while held, with the intention to procure another homestead with the
22 proceeds, for 2 years. The exemption extends to land owned by husband and wife
23 jointly or in common or as marital property, ~~and when they reside in the same~~
24 ~~household may be claimed by either or may be divided in any proportion between~~
25 ~~them, but the exemption may not exceed \$40,000 for the household. If the husband~~

1 and wife fail to agree on the division of exemption, the exemption shall be divided
2 between them by the court in which the first judgment was taken. The exemption
3 extends to the interest therein of tenants in common, having a homestead thereon
4 with the consent of the cotenants, and to any estate less than a fee.

and
each
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claim
the
exemption

5 (2) Any owner of an exempt homestead against whom a judgment has been
6 rendered and entered in the judgment and lien docket, and any heir, devisee or
7 grantee of the owner, or any mortgagee of the homestead, may proceed under s.
8 806.04 for declaratory relief if the homestead is less than \$40,000, as adjusted under
9 sub. (3), in value and the owner of the judgment shall fail, for 10 days after demand,
10 to execute a recordable release of the homestead from the judgment owner's
11 judgment lien.

12 **SECTION 9.** 815.20 (3) of the statutes is created to read:

13 815.20 (3) The department of administration shall adjust the amount of the
14 homestead exemption under this section and s. 815.21 annually, beginning in
15 January, 2004, or on the effective date of this subsection [revisor inserts date],
16 whichever is later, to reflect the annual change in the consumer price index for all
17 urban consumers, U.S. city average, as determined by the U.S. department of labor.
18 By March 1 of each year, the department of administration shall notify the director
19 of state courts of the adjusted amount of the homestead exemption, which shall apply
20 to all executions issued on or after that date.

21 **SECTION 10.** 815.21 (2) of the statutes is amended to read:

22 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the
23 estimate of the value thereof, the officer shall cause such lands to be surveyed,
24 beginning at a point to be designated by the owner and set off in compact form. After
25 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be

1 of greater value than \$40,000, as adjusted under s. 815.20 (3), the officer may still
2 advertise and sell the premises so set off, and out of the proceeds of such sale pay to
3 the exempt homestead claimant the sum of \$40,000, as adjusted under s. 815.20 (3),
4 and apply the balance of the proceeds of such sale on the execution; but no sale shall
5 be made in the case last mentioned unless a greater sum than \$40,000, as adjusted
6 under s. 815.20 (3), is paid for said premises. The expenses of such survey and sale
7 shall be collected on the execution if the owner claimed as the owner's homestead a
8 greater quantity of land or land of greater value than the owner was entitled to;
9 otherwise such expenses shall be borne by the plaintiff.

10 **SECTION 11.** 815.21 (4) of the statutes is amended to read:

11 815.21 (4) A homestead so selected and set apart by such officer shall be the
12 exempt homestead of such person. The costs of such notice and survey shall be
13 collected upon the execution. A failure of the officer to set apart such homestead shall
14 affect such levy, only as to such homestead; and the failure of such person to select
15 that person's homestead shall not impair that person's right thereto, but only that
16 person's right to select the same when such selection is lawfully made by such officer.
17 After such homestead is thus set off by such officer, if, in the officer's opinion or in
18 the opinion of the plaintiff, the premises are of greater value than \$40,000, as
19 adjusted under s. 815.20 (3), the officer may sell the same as where the owner makes
20 the selection.

21 **SECTION 12.** 815.21 (5) of the statutes is amended to read:

22 815.21 (5) If the land claimed as an exempt homestead exceeds in value
23 \$40,000, as adjusted under s. 815.20 (3), the officer shall not be bound to set off any
24 portion thereof but may sell the same, unless the debtor shall make the debtor's

1 selection of such a portion thereof as shall not exceed \$40,000, as adjusted under s.
2 815.20 (3), in value.

3 **SECTION 13. Initial applicability.**

4 (1) This act first applies to executions issued on the effective date of this
5 subsection.

6 (END)

Nelson, Robert P.

From: Gruber, Ryan
Sent: Thursday, August 07, 2003 12:22 PM
To: Nelson, Robert P.
Subject: Changes to LRB - 2833/P1

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Robert,

Upon review, we would like to make the following two changes to this bill:

1) Homestead Exemption - Add after "The exemption extends to land owned by husband and wife jointly or in common or as marital property," the words "and each spouse may claim such an exemption." Page 3, Line 22-23. This is purely for clarification.

2) Closely Held Business Exemption - Under the closely held business exemption, the dollar amount should be \$12,500, not \$12,000. [We had proposed \$12,500 (the amount of the proposed revised tool of the trade exemption), and for some reason the dollar amount in Section 2, Line 5 of the bill (the tools of the trade exemption) is \$500 more than in Section 3, line 8 (the closely held business interest). The dollar amounts should agree.]

Let me know if you have any questions. Thanks for your help.

Ryan Gruber
Research Assistant
Clerk, Assembly Committee on Property
Rights and Land Management
Office of Rep. Sheryl Albers
1-877-947-0050 (in Wisconsin)
1-608-266-8531
1-608-282-3650 (fax)
ryan.gruber@legis.state.wi.us

Nelson, Robert P.

From: Gruber, Ryan
Sent: Thursday, August 14, 2003 9:36 AM
To: Nelson, Robert P.
Subject: LRB - 2833/P2

Robert,

In response to your question at the top of page 2, we are okay with the definition that you have provided of a closely held business. Please finalize the draft and have it jacketed as an Assembly bill. Thanks!

Ryan Gruber

Research Assistant
Clerk, Assembly Committee on Property
Rights and Land Management
Office of Rep. Sheryl Albers
1-877-947-0050 (in Wisconsin)
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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2833/10

RPN:wlj:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

OTHER

REGEN

1 AN ACT *to renumber and amend* 815.18 (3) (b); *to amend* 815.18 (3) (d), 815.18
2 (3) (f), 815.18 (3) (g), 815.18 (3) (i) 1. c., 815.20 (1) and (2), 815.21 (2), 815.21 (4)
3 and 815.21 (5); and *to create* 815.18 (2) (bc), 815.18 (3) (b) 2. and 815.20 (3) of
4 the statutes; **relating to:** the homestead exemption and increases in the value
5 of the exemption for various property that is exempt from execution.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 815.18 (2) (bc) of the statutes is created to read:
7 815.18 (2) (bc) "Closely held business" means a corporation whose stocks are
8 held by not more than 25 individuals, a partnership of not more than 25 partners who
9 are individuals, or a limited liability company of not more than 25 members who are
10 individuals.

****NOTE: I chose 25 as the number because section 551.23 (10) and (11) of the statutes exempts from securities registration any transaction involving 25 or fewer persons. There is no definition of "closely held business" in the statutes. Sections 77.25 (15), (15m), and (15s) create exemptions from paying a real estate transfer fee if the transfer is between a business and the shareholders, partners, or members if those individuals are related to each other. That could be another way to define a closely held business, but I thought it might be too narrow for this use. Let me know if this definition needs changing.

1 **SECTION 2.** 815.18 (3) (b) of the statutes is renumbered 815.18 (3) (b) 1. and
2 amended to read:

3 815.18 (3) (b) 1. Equipment, inventory, farm products and professional books
4 used in the business of the debtor or the business of a dependent of the debtor, not
5 to exceed ~~\$7,500~~ \$12,500 in aggregate value.

6 **SECTION 3.** 815.18 (3) (b) 2. of the statutes is created to read:

7 815.18 (3) (b) 2. If the debtor does not claim an exemption under subd. 1., any
8 interest of the debtor, not to exceed \$12,500 in aggregate value, in a closely held
9 business that employs the debtor or in whose business the debtor is actively involved.

10 **SECTION 4.** 815.18 (3) (d) of the statutes is amended to read:

11 815.18 (3) (d) *Consumer goods.* Household goods and furnishings, wearing
12 apparel, keepsakes, jewelry and other articles of personal adornment, appliances,
13 books, musical instruments, firearms, sporting goods, animals or other tangible
14 personal property held primarily for the personal, family or household use of the
15 debtor or a dependent of the debtor, not to exceed ~~\$5,000~~ \$10,000 in aggregate value.

16 **SECTION 5.** 815.18 (3) (f) of the statutes is amended to read:

17 815.18 (3) (f) *Life insurance.* Any unmaturred life insurance contract owned by
18 the debtor and insuring the debtor, the debtor's dependent or an individual of whom
19 the debtor is a dependent, other than a credit life insurance contract, and the debtor's
20 aggregate interest, not to exceed ~~\$4,000~~ \$8,625 in value, in any accrued dividends,
21 interest or loan value of all unmaturred life insurance contracts owned by the debtor

1 and insuring the debtor, the debtor's dependent or an individual of whom the debtor
2 is a dependent.

3 **SECTION 6.** 815.18 (3) (g) of the statutes is amended to read:

4 815.18 (3) (g) *Motor vehicles.* Motor vehicles not to exceed \$1,200 \$2,775 in
5 aggregate value. Any unused amount of the aggregate value from par. (d) may be
6 added to this exemption to increase the aggregate exempt value of motor vehicles
7 under this paragraph.

8 **SECTION 7.** 815.18 (3) (i) 1. c. of the statutes is amended to read:

9 815.18 (3) (i) 1. c. A payment, not to exceed \$25,000 \$40,000, resulting from
10 personal bodily injury, including pain and suffering or compensation for actual
11 pecuniary loss, of the debtor or an individual of whom the debtor is a dependent.

12 **SECTION 8.** 815.20 (1) and (2) of the statutes are amended to read:

13 815.20 (1) An exempt homestead as defined in s. 990.01 (14) selected by a
14 resident owner and occupied by him or her shall be exempt from execution, from the
15 lien of every judgment and from liability for the debts of the owner to the amount of
16 \$40,000, as adjusted under sub. (3), except mortgages, laborers', mechanics' and
17 purchase money liens and taxes and except as otherwise provided. The exemption
18 shall not be impaired by temporary removal with the intention to reoccupy the
19 premises as a homestead nor by the sale of the homestead, but shall extend to the
20 proceeds derived from the sale to an amount not exceeding \$40,000, as adjusted
21 under sub. (3), while held, with the intention to procure another homestead with the
22 proceeds, for 2 years. The exemption extends to land owned by husband and wife
23 jointly or in common or as marital property, ~~and when they reside in the same~~
24 ~~household may be claimed by either or may be divided in any proportion between~~
25 ~~them, but the exemption may not exceed \$40,000 for the household. If the husband~~

a homestead *of not more than \$40,000*
1 and wife fail to agree on the division of exemption, the exemption shall be divided
2 between them by the court in which the first judgment was taken and each spouse
3 may claim ~~the~~ exemption. The exemption extends to the interest therein of tenants
4 in common, having a homestead thereon with the consent of the cotenants, and to any
5 estate less than a fee.

6 (2) Any owner of an exempt homestead against whom a judgment has been
7 rendered and entered in the judgment and lien docket, and any heir, devisee or
8 grantee of the owner, or any mortgagee of the homestead, may proceed under s.
9 806.04 for declaratory relief if the homestead is less than \$40,000, as adjusted under
10 sub. (3), in value and the owner of the judgment shall fail, for 10 days after demand,
11 to execute a recordable release of the homestead from the judgment owner's
12 judgment lien.

13 SECTION 9. 815.20 (3) of the statutes is created to read:

14 815.20 (3) The department of administration shall adjust the amount of the
15 homestead exemption under this section and s. 815.21 annually, beginning in
16 January 2004, or on the effective date of this subsection [revisor inserts date],
17 whichever is later, to reflect the annual change in the consumer price index for all
18 urban consumers, U.S. city average, as determined by the U.S. department of labor.
19 By March 1 of each year, the department of administration shall notify the director
20 of state courts of the adjusted amount of the homestead exemption, which shall apply
21 to all executions issued on or after that date.

22 SECTION 10. 815.21 (2) of the statutes is amended to read:

23 815.21 (2) If such plaintiff is dissatisfied with the quantity selected or the
24 estimate of the value thereof, the officer shall cause such lands to be surveyed,
25 beginning at a point to be designated by the owner and set off in compact form. After

1 the lands are surveyed and set off, if in the opinion of the plaintiff, the same shall be
2 of greater value than \$40,000, as adjusted under s. 815.20 (3), the officer may still
3 advertise and sell the premises so set off, and out of the proceeds of such sale pay to
4 the exempt homestead claimant the sum of \$40,000, as adjusted under s. 815.20 (3),
5 and apply the balance of the proceeds of such sale on the execution; but no sale shall
6 be made in the case last mentioned unless a greater sum than \$40,000, as adjusted
7 under s. 815.20 (3), is paid for said premises. The expenses of such survey and sale
8 shall be collected on the execution if the owner claimed as the owner's homestead a
9 greater quantity of land or land of greater value than the owner was entitled to;
10 otherwise such expenses shall be borne by the plaintiff.

11 **SECTION 11.** 815.21 (4) of the statutes is amended to read:

12 815.21 (4) A homestead so selected and set apart by such officer shall be the
13 exempt homestead of such person. The costs of such notice and survey shall be
14 collected upon the execution. A failure of the officer to set apart such homestead shall
15 affect such levy, only as to such homestead; and the failure of such person to select
16 that person's homestead shall not impair that person's right thereto, but only that
17 person's right to select the same when such selection is lawfully made by such officer.
18 After such homestead is thus set off by such officer, if, in the officer's opinion or in
19 the opinion of the plaintiff, the premises are of greater value than \$40,000, as
20 adjusted under s. 815.20 (3), the officer may sell the same as where the owner makes
21 the selection.

22 **SECTION 12.** 815.21 (5) of the statutes is amended to read:

23 815.21 (5) If the land claimed as an exempt homestead exceeds in value
24 \$40,000, as adjusted under s. 815.20 (3), the officer shall not be bound to set off any
25 portion thereof but may sell the same, unless the debtor shall make the debtor's

1 selection of such a portion thereof as shall not exceed \$40,000, as adjusted under s.
2 815.20 (3), in value.

3 **SECTION 13. Initial applicability.**

4 (1) This act first applies to executions issued on the effective date of this
5 subsection.

6 (END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2833/1ins
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insert anl:

Under current law, a debtor's interest in certain property and the value of certain property ^{are} ~~is~~ exempt from execution, from the lien of every judgment, and from liability for the debtor's debts, allowing the debtor to keep that property rather than have the property taken to pay the amounts owed to creditors. This bill raises the value of some of the property that is exempt as shown by the following table:

Property	Current exempt value	Exempt value under the bill
Business equipment, inventory, farm products, and professional books ^e	\$7,500	\$12,500 ✓
Consumer goods, including household furnishing, appliances, clothes, jewelry, sporting goods, and firearms ^e	\$5,000	\$10,000 ✓
Life insurance ^e	\$4,000	\$8,625 ✓
Motor vehicles ^e	\$1,200	\$2,775 ✓
Payments for a personal injury ^e	\$25,000	\$40,000 ✓

This bill also allows a person who does not take an exemption for business equipment, inventory, farm products, or professional books to take an exemption of any interest the debtor has in a closely held business, up to a maximum amount of \$12,500.

In addition, the bill requires the department of administration, beginning in January^e 2004, to annually adjust the exemption for the debtor's homestead, currently set at \$40,000, to reflect the annual change in the consumer price index for all urban consumers. Current law extends the homestead exemption to land owned by a husband and wife jointly or in common and allows either to claim the exemption or to divide the exemption between them. The bill allows the husband and wife to each claim a homestead exemption of not more than \$40,000.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Emery, Lynn

From: Emery, Lynn
Sent: Thursday, August 28, 2003 11:39 AM
To: Rep.Albers
Subject: LRB-2833/1 (attached as requested)



03-2833/1

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